

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

LISA ANN FIXEL,
Plaintiff,

vs.

STATE OF UTAH, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED

Case No. 2:07-CV-505 TS

Plaintiff filed a Complaint against the State of Utah and various state officials on October 24, 2007.¹ After months of inaction, the Court issued an Order to Show Cause on March 28, 2008, directing Plaintiff to show cause why her Complaint should not be dismissed for failure to prosecute pursuant to Fed.R.Civ.P. 41(b).² After receiving no response to the Order to Show Cause, the Court dismissed Plaintiff's Complaint on April 28, 2008.³

On August 11, 2008, Plaintiff filed a Motion to Proceed, by which Plaintiff sought to proceed with her case. The Court construes this as a Motion under Fed.R.Civ.P. 60(b).

¹Docket No. 5.

²Docket No. 6.

³Docket No. 7.

Rule 60(b) provides:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Plaintiff has failed to show that any of the reasons set forth in Rule 60(b) are applicable here. Plaintiff provides no reason for the inactivity in her case from the time of the filing of her Complaint to the time of its dismissal. Nor does Plaintiff explain why she failed to respond to the Court's Order to Show Cause. Plaintiff merely requests that she be allowed to proceed. Plaintiff has failed to provide any justification for relieving her of the Court's Order dismissing this case.

It is therefore

ORDERED that Plaintiff's Motion to Proceed (Docket No. 8) is DENIED.

DATED September 9, 2008.

BY THE COURT:



TED STEWART
United States District Judge